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Ohio Fifth District Court of Appeals Case Summaries

Case Caption	Case No(s)	Character of Proceeding	Judgment	Topics and Issues	Author	Date of Judgment Entry
State v. Perenkovich	2025CA00108	Appeal from the Stark County Court of Common Pleas, Case No. 2023CR2195	Affirmed	Post-Conviction Relief ("PCR") - Aggravated Trafficking in Drugs - Aggravated Possession of Drugs - Ineffective Assistance of Counsel - No Evidentiary Hearing Defendant-appellant Nicole Perenkovich appealed the Stark County Court of Common Pleas' dismissal of her petition for post-conviction relief without a hearing, arguing ineffective assistance of trial counsel on three grounds. The underlying case arose after Perenkovich, while on probation for prior drug offenses, admitted to methamphetamine use, leading to a search that uncovered drug paraphernalia in her home and 231 grams of methamphetamine in her vehicle, along with incriminating statements and phone evidence suggesting drug distribution; she was subsequently convicted of aggravated trafficking and possession and sentenced to eight to twelve years, which was affirmed on direct appeal. In her post-conviction petition, she claimed counsel was ineffective for failing to subpoena her stepsister to testify that the drugs belonged to another, failing to impeach an officer whether a bedroom was occupied, and failing to use phone records to challenge testimony about a jail call. The appellate court held that the trial court did not abuse its discretion in denying a hearing because Perenkovich failed to present sufficient operative facts demonstrating deficient performance or prejudice under the applicable legal standard; specifically, the alleged new evidence was unauthenticated, speculative, or immaterial, and would not have changed the outcome of the trial. Accordingly, all assignments of error were overruled, and the trial court's judgment was affirmed.	Hoffman	4/13/2026
DNW Properties III, L.L.C. v. Tucker	2025CA00090	Appeal from the Canton Municipal Court, Stark County , Ohio, Case No. 2024CVG3590	Affirmed	Right to a jury trial; Eviction; Landlord; Tenant Defendant-appellant David Tucker appealed a judgment of the Canton Municipal Court granting DNW Properties possession of a rental property in a forcible entry and detainer (eviction) action and finding that he waived his right to a jury trial. Tucker had remained in the property after receiving multiple notices terminating his month-to-month tenancy and to vacate, and DNW filed for eviction. Although Tucker eventually filed a jury demand, it was made after the statutory deadline set by R.C. 1923.09(A), which requires such a demand by the return day of the summons. On appeal, Tucker argued the statute was unconstitutional and improperly denied his right to a jury trial. The appellate court rejected both facial and as-applied challenges, holding that the statute reasonably regulates the timing of jury demands in eviction proceedings to ensure their summary and expedited nature, and that failure to comply results in waiver of the right. Because Tucker had ample notice and failed to timely demand a jury, the trial court did not err, and the judgment granting possession to DNW was affirmed.	Montgomery	4/13/2026
State v. Bookhamer	25CA000005	Appeal from the Mount Vernon Municipal Court of Knox County , Case No. 24CRB651	Affirmed	Non-deadly force, self-defense Appellant Jack Bookhamer, Jr. appealed his conviction for domestic violence following a jury trial in the Mount Vernon Municipal Court, arguing that the verdict was against the manifest weight of the evidence because the State failed to disprove his claim of self-defense. The charges arose from an August 27, 2024 incident in which both Bookhamer and the victim, J.G., called 911 after an altercation in a vehicle; J.G. reported that Bookhamer threw a coffee cup at her and punched her, and officers observed injuries consistent with her account, while Bookhamer claimed she acted aggressively and any contact occurred as he tried to protect himself and control the vehicle. At trial, the jury found him guilty of domestic violence but not guilty of assault, and the court later denied his motion for a new trial based on alleged juror misconduct. On appeal, the court held that the jury was entitled to weigh credibility and resolve conflicting testimony, and that sufficient evidence—including J.G.'s injuries and lack of injuries to Bookhamer—supported the conclusion that he was the aggressor, thereby negating self-defense. Finding no miscarriage of justice, the appellate court affirmed the conviction.	Popham	4/13/2026
State v. Lewis	25 CAA 09 0085	Appeal from the Delaware County Court of Common Pleas, Case No. 20 CR I 08 0555	Affirmed	Postconviction application for DNA testing Appellant Kenneth Lewis appealed the trial court's denial of his application for postconviction DNA testing following his convictions for aggravated robbery and kidnapping stemming from a 2020 armed robbery of a Cashland pawnshop. At trial, substantial evidence linked Lewis to the crime, including surveillance footage, eyewitness testimony, a detective's observations, recovery of a discarded shirt containing Lewis's DNA as the major contributor, and incriminating statements made to a fellow inmate. After multiple unsuccessful postconviction filings, Lewis sought new DNA testing of the shirt, claiming more advanced or independent analysis might exclude him. The trial court denied the request, finding a prior definitive DNA test had already established his DNA on the evidence and that additional testing would not be outcome determinative given the overwhelming corroborating evidence. The appellate court affirmed, holding the trial court did not abuse its discretion because the statutory requirements for postconviction DNA testing were not met, particularly where a definitive prior test existed and there was no strong probability that new results would change the verdict.	Baldwin	4/13/2026



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Mancan, Inc. v. Al's Auto Servs., Inc.	2025CA00109	Appeal from the Massillon Municipal Court of Stark County , Case No. 2025-CVF-00706	Affirmed	Because the appellant did not object to a trial-court magistrate's decision and also did not include in the appellate record a key hearing transcript from the trial court, our review is limited to plain error. The judgment is affirmed where no plain error is evident in the trial court's decision granting default judgment. Defendant Al's Auto Services, Inc. appealed a Massillon Municipal Court judgment granting default judgment to Mancan, Inc. in a breach-of-contract action arising from a staffing agreement that prohibited Al's Auto from hiring Mancan employees within 180 days without paying a fee. After Al's Auto hired a worker in violation of the agreement and failed to respond to the complaint, the trial court held a hearing, denied a last-minute continuance request, and awarded Mancan damages, interest, and attorney's fees. On appeal, the court's review was limited because Al's Auto failed to object to the magistrate's decision and did not provide a transcript of the hearing, requiring a presumption of regularity and limiting review to plain error. The appellate court found no plain error, holding that the record supported the judgment, that Al's Auto received adequate notice and due process, and that the denial of the continuance was within the trial court's discretion. Accordingly, the judgment was affirmed.	Gormley	4/13/2026
In re Estate of Shurman	2025CA00090, 2025CA00100, 2025CA00101, 2025CA00102	Appeal from the Stark County Court of Common Pleas, Probate Division, Case Nos. 241722, 244969, 244970, 244971	Affirmed	Civil contempt Attorney Gerald B. Golub appealed a probate court decision finding him in indirect civil contempt for failing to comply with a prior order requiring him to return \$43,560 in attorney fees he had taken from four related estates without court approval. The appellate court affirmed, holding that the prior order was lawful and had already been upheld on appeal, and that Golub's admitted failure to return any of the funds constituted disobedience of that order. The court found no abuse of discretion, emphasizing that the contempt was civil and coercive—intended to compel compliance—and that Golub had the ability to purge the contempt through repayment, including partial payments or by seeking court approval of fees. The court rejected his numerous procedural and constitutional arguments as meritless or irrelevant, noting he had proper notice, opportunity to be heard, and avenues to remedy the violation, and concluded that all ten assignments of error lacked merit.	Baldwin	4/13/2026
State v. Heath	25 CAA 06 0044 25 CAA 08 0063	Appeal from the Delaware County Court of Common Pleas, Case Nos. 25 CRI 02 0122 & 23 CRI 03 0112	Affirmed	Reconsideration; sentencing; community control The appellate court granted the State of Ohio's motion for reconsideration of its prior decision in State v. Heath, vacated its earlier ruling, and ultimately affirmed the trial court's judgment while denying en banc review. The court found its prior reliance on outdated case law was erroneous in light of amendments to R.C. 2929.14(B)(4), concluding that the trial court had adequately notified Heath at sentencing that a violation of community control could result in a prison term of up to 20 years, which satisfied statutory requirements even without stating a precise range. The court also held that the trial court properly imposed consecutive sentences, determining Heath had sufficient notice that consecutive terms could be imposed for his original offenses and that no existing prison term required additional notice for consecutive sentencing upon revocation. Accordingly, both of Heath's assignments of error were overruled, and the trial court's sentence was upheld.	King	4/13/2026
State v. Bickerstaff	2025-CA-0056	Appeal from the Richland County Court of Common Pleas, Case No. 2024 CR 0220N	Affirmed	Assault, physical harm sufficiency of evidence Defendant-appellant Terry L. Bickerstaff appealed his third-degree felony assault conviction, arguing the evidence was insufficient to prove he caused physical harm to a corrections officer at the Mansfield Correctional Institution. The evidence showed that while in a segregation recreation cell, Bickerstaff swung through the bars at Officer J.N., who testified he struck her in the face, causing visible redness, a mark, and later head and neck pain; although Bickerstaff admitted swinging, he denied making contact. The court held that under Ohio law, assault includes attempting to cause physical harm, and Bickerstaff's admitted actions, the officer's testimony, and supporting video evidence were sufficient for a rational jury to find guilt beyond a reasonable doubt. Additionally, even minimal injury qualifies as physical harm, and the victim's testimony alone was enough to support the conviction. Accordingly, the appellate court overruled Bickerstaff's assignment of error and affirmed the conviction.	Popham	4/14/2026



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State v. Ratcliff	2025 CA 0007	Appeal from the Court of Common Pleas of Morrow County , Case No. 2024 CR 0056	Reversed and Remanded	Where the trial court failed to explain to a felony defendant during a plea colloquy that he faced indefinite prison terms, and where the court gave an inaccurate explanation about the maximum prison terms that the defendant faced on each charge, a "complete" failure to comply with Criminal Rule 11(C)(2)(a)'s maximum-penalty requirement occurred. The defendant therefore had no obligation to demonstrate that he was prejudiced by the errors, and his guilty pleas are vacated. Defendant Travis Ratcliff appealed his convictions, arguing his guilty pleas were not knowing, intelligent, and voluntary because the trial court failed to properly advise him that his second-degree felony charges carried indefinite, rather than definite, prison terms. Ratcliff had pled guilty to seven charges, including two counts of aggravated vehicular assault stemming from a drug-related crash that injured two people, but during the plea hearing the court incorrectly stated he faced definite terms of two to eight years and failed to explain the indefinite sentencing scheme or the true maximum penalties. Although the error was recognized at sentencing, it was not corrected before the plea was accepted. The appellate court held this misinformation constituted a "complete failure" to comply with Criminal Rule 11(C)(2)(a)'s requirement to accurately explain the maximum penalty, meaning Ratcliff was not required to show prejudice. As a result, the court sustained his assignment of error, vacated all convictions, and remanded the case for further proceedings.	Gormley	4/14/2026
Epifano v. Epifano	25-CA-00009	Appeal from the Perry County Court of Common Pleas, Domestic Relations Division, Case No. 24-DV-00196	Affirmed	Abatement of divorce The Estate of James Epifano, Jr. appealed the trial court's decision to abate a divorce action following the husband's death, arguing the court erred in dismissing the case and failing to enforce a separation agreement. The appellate court affirmed, holding that because the husband died before any evidentiary hearing or judicial determination of the parties' rights, the divorce action abated as a matter of law. The court explained that a narrow exception—allowing a case to proceed after death—applies only when all issues have already been adjudicated and only journalization remains, which was not the case here. It also rejected the argument that the separation agreement prevented abatement, noting the trial court had not yet ruled on its enforceability. As a result, the remaining assignments of error were deemed moot, and the trial court's judgment was affirmed.	Baldwin	4/15/2026
Back v. Taulbee	2025 CA 0102	Appeal from the Richland County Court of Common Pleas, Case No. 2010 PAT 0026	Affirmed	Trial Court did not violate Ohio Code Jud. Conduct Canon 2.2 or 2.6 (A) - Child Support Enforcement Agency Attorney did not violate Ohio Administrative Code 5101:12-45-05.2(D) Plaintiff-appellant Heidi Back appealed the trial court's decision adopting a magistrate's order requiring her to pay child support, arguing she was not given a fair opportunity to present evidence at the hearing. The appellate court affirmed, finding that although the hearing was brief and included minor interruptions, Back was not prevented from presenting evidence and was expressly given the opportunity to provide additional information before the matter was submitted. The court noted that Back failed to introduce supporting documentation at the hearing and could have done so, and that the materials attached to her later objections were available at that time. Accordingly, the trial court did not err in overruling her objections and adopting the magistrate's decision.	Hoffman	4/15/2026
State v. Atchley	CT2025-0101	Appeal from the Court of Common Pleas of Muskingum County , Case No. CR2025-0281	Affirmed	Drug-trafficking conviction was not against the manifest weight of the evidence where the fentanyl in question was carried by the defendant in 11 separate baggies and where the defendant himself testified that he intended to share some of the drugs with another person. Defendant Shawn Atchley appealed his drug-trafficking conviction, arguing it was against the manifest weight of the evidence, but the appellate court affirmed. The court found sufficient evidence supported the jury's verdict, noting Atchley was found with fentanyl divided into 11 individually packaged baggies, a method indicative of trafficking according to officer testimony. Additionally, Atchley admitted he intended to share the drugs with another person, which legally qualifies as a "sale" under Ohio law. The court rejected his arguments that the drugs were for personal use and that the absence of typical trafficking paraphernalia or the jury's decision not to forfeit his cash undermined the conviction. Concluding that the jury did not lose its way and that a rational basis existed for the verdict, the court upheld the conviction.	Gormley	4/15/2026



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State v. Stone	2025 CAA 09 0080	Appeal from the Delaware County Court of Common Pleas, Case No. 24 CRI 11 0661	Affirmed	Consecutive Sentences not Contrary to Law Telecommunication Fraud and Attempted Impersonation of a Peace Officer are not Allied Offenses as each was Based Upon Separate and Distinct Conduct Defendant Adam Stone appealed his consecutive prison sentences for telecommunications fraud and attempted impersonation of a peace officer, arguing the sentences were disproportionate and that the offenses should have merged as allied offenses. The appellate court affirmed, finding the trial court properly made the required statutory findings to impose consecutive sentences, emphasizing the seriousness of Stone's conduct in exploiting grieving parents over an extended period while posing as legal and law enforcement authorities. The court also rejected Stone's merger argument, concluding that although the offenses were related and shared a common purpose, they were based on separate and distinct conduct and therefore did not qualify as allied offenses requiring merger. Accordingly, the trial court's judgment was upheld.	Hoffman	4/15/2026
State v. Smith	25CA000038 & 25CA000039	Appeal from the Guernsey County Court of Common Pleas, Case Nos. 25CR000002 & 25CR000064	Affirmed	R.C. 2929.11 and R.C. 2929.12 - Sentence not Contrary to Law - Trial Court Weighed Factors Appropriately Defendant-appellant Timothy Smith appealed his September 22, 2025 sentence from the Guernsey County Court of Common Pleas, which imposed an aggregate 88-month prison term after he pled guilty to one count of having weapons while under disability, two counts of gross sexual imposition, and one count of retaliation. Originally indicted on multiple additional charges, including rape and drug possession, Smith entered a negotiated plea in which several counts were dismissed. The charges stemmed from conduct involving a 17-year-old victim who was intoxicated and from Smith's unlawful possession of firearms due to a prior conviction, as well as threats made after his arrest. On appeal, Smith argued the trial court gave insufficient consideration to the sentencing factors under R.C. 2929.12. The appellate court rejected this claim, finding the trial court properly considered the statutory sentencing principles and factors, documented its reasoning, and imposed a sentence within the lawful range. Accordingly, the court affirmed the trial court's judgment.	Hoffman	4/16/2026
State v. Toth	25CA000028	Appeal from the Guernsey County Court of Common Pleas, Case No. 25CR36	Affirmed in Part, Reversed in Part and Remanded	Aggravated Trafficking Appellant Joseph Toth appealed his convictions and sentence following a negotiated guilty plea to aggravated trafficking in drugs and trafficking in a fentanyl-related compound in the Guernsey County Court of Common Pleas. The appellate court upheld his prison sentence but found error in the trial court's imposition of mandatory fines and its order requiring the sale of Toth's vehicle to satisfy those fines. Although the trial court determined Toth was indigent, it improperly attempted to apply proceeds from the sale of his car without complying with Ohio's forfeiture statutes, rendering that order unlawful. The court also held that the trial court failed to provide all required oral advisements under the Reagan Tokes Act at sentencing, making the sentence contrary to law in part. As a result, the appellate court affirmed the incarceration portion of the sentence, reversed the imposition of mandatory fines and the vehicle-sale order, found the ineffective assistance claim moot, and remanded the case for resentencing with proper statutory notifications and a corrected determination that Toth is not subject to mandatory fines.	Popham	4/17/2026
State v. Crowley	2025CA00112	Appeal from the Stark County Court of Common Pleas, Case No. 2025-CR-1014	Affirmed	Denial of motion to suppress Defendant-Appellant Dennis Crowley appealed the Stark County Court of Common Pleas' denial of his motion to suppress evidence obtained after a traffic stop, arguing the officer lacked reasonable suspicion to initiate the stop. The appellate court affirmed the trial court's decision, finding that Officer Webb had a valid basis for the stop due to the loud muffler on Crowley's vehicle, which violated Ohio law. Evidence from the officer's testimony and body camera footage supported that the noise was excessive and noticeable, providing reasonable and articulable suspicion for the stop. Following the lawful stop, officers discovered cocaine during an inventory search after learning Crowley's license was suspended. The court concluded the stop was constitutionally valid under the totality of the circumstances and upheld Crowley's conviction and sentence of community control.	King	4/17/2026